

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

TENISHA CHILDRESS,

Plaintiff,

v.

DECISION AND ORDER
12-CV-630S

FEDERAL CHECK PROCESSING, INC., and
TRINITY ACQUISITION GROUP INC.,

Defendants.

1. Plaintiff commenced this action against Defendants Federal Check Processing, Inc., and Debt Management Partners, LLC on July 8, 2012. Plaintiff filed a voluntary dismissal of all claims against Defendant Debt Management Partners on September 28, 2012. Plaintiff was then granted leave and filed an Amended Complaint adding Trinity Acquisition Group Inc. as a Defendant on November 5, 2012. Following Plaintiff's request, the Clerk of this Court entered a default against only Defendant Federal Check Processing on October 25, 2013. Plaintiff was subsequently directed by the Honorable H. Kenneth Schroeder, Jr., to file a notice of entry of default against Defendant Trinity Acquisition Group and then file a motion seeking a default judgment as against both Defendants.

2. Presently before this Court is Plaintiff's motion for an entry of a default judgment against "Federal Check Processing, Inc. & Debt Management Partners, LLC pursuant to Federal Rule of Civil Procedure 55(b)." (Docket No. 28 at 1 (capitalization altered).) As noted, the original complaint was voluntarily dismissed against Debt Management Partners. Further, counsel's supporting affidavit relies upon the original

complaint served upon Defendants Federal Check Processing and Debt Management Partners on July 30, 2012, which has since been superseded. See Shields v. Citytrust Bancorp, 25 F.3d 1124, 1128 (2d Cir. 1994) (the filing of an amended complaint generally renders the original of no legal effect). Counsel also erroneously states that the default of both “defendants was entered on October 25, 2013,” when Plaintiff never complied with the Magistrate Judge’s direction to request an entry of default against Defendant Trinity Acquisition Group. Plaintiff’s motion for a default judgment against any defendant is therefore DENIED. Plaintiff is directed to file an appropriate request for an entry of default against Trinity Acquisition Group by April 18, 2014 and an appropriate motion for a default judgment against both Defendants within 30 days of that entry of default by the Clerk of this Court. Failure to do so will result in dismissal of the Amended Complaint with prejudice.

SO ORDERED.

Dated: April 7, 2014
Buffalo, New York

s/William M. Skretny
WILLIAM M. SKRETNY
Chief Judge
United States District Court